IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(special original jurisdiction)

Thursday, the Seventh day of October
Two Thousand and four

Present

THE HONOURABLE SMT JUSTICE T.MEENA KUMARI

WRIT PETITION NO : 22077 of 1995

between:

1 Gali chandraiah, s/o Ilaiah, 70 years,
Chinabandirevu village, Dummugudem Mandalam, Khammam District.
2 Gali narasiah, s/o Chandraiah, 40 years,
Chinabandirevu village, Dummugudem Mandalam, Khammam District.
3 Gali ilaiah, s/o Chandraiah, 32 years,
Chinabandirevu village, Dummugudem Mandalam, Khammam District.
4 Gali srinivas, s/o Chandraiah, 23 years,
Chinabandirevu village, Dummugudem Mandalam, Khammam District.

.....Petitioner(s)

and

1 The District Collector,
Khammam, Khammam District.
2 The Revenue Divisional Officer,
Bhadrachalam, Khammam District.
3 The Mandal Revenue Officer,
Dummugudem Mandalam, Dummugudem, Khammam District.

.....Respondent(s)

Petition under article 226 of the constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of writ of mandamus directing the respondents not to interfere with the possession of the petitioners in respect of the lands admeasuring h.1.04A in s.no.31/1 and h.1.44A in s.no.31/2P totalling h.2.48A. situate at Chinabanderevu village, Dummugudem Mandalam, Khammam District

Counsel for the Petitioners: MR.K.MANIKYALA RAO

Counsel for the Respondents: GP FOR LAND ACQUISITION

The Court made the following :

ORDER:

The writ petition is filed by the petitioners, seeking a writ of mandamus directing the respondents not to interfere with the possession of the petitioners in respect of the lands admeasuring H.1.04 A in S.No.31/1 and H.1.44 A in S.No.31/2p totaling H.2.48 A, situate at China Bandi Revu Village, Dummugudem Mandal, Khammam District.

The case of the petitioners according to the affidavit filed by the first petitioner, in brief, is that the Government by its Memo No.892/J2/80.3, dt: 17.07.1980 instructed the Collector not to evict the petitioners from the land pending settlements, under Estate Abolition Act 1948 as well as under Regulation 1/69, 2/69 and 2/70. Therefore, the Collectors issued instructions to all the Revenue authorities in their districts not to evict such of those claimants whose cases are pending before the Settlements authorities for grant of Ryotwari patta. After that, the Tahasildar, Bhadrachalam issued a possession certificate dated 3.7.1982 stating that they are in possession of land admeasuring H.2.48 A for the last 15 years before 1982 and he is a landless poor person. It is his further contention that as per GO Ms No. 41, dated 12.1.1971, and according to the Board standing orders also, the land less poor persons should not be evicted from the lands in their occupation upto an extent of Ac.5.00 dry land or Ac. 2.00 wet land.

It is their main grievance that for the last few days, the third respondent and his staff came to them and threatened them that they would issue orders to evict them from the land, which is in their occupation. Hence the present writ petition.

Counter affidavit has been filed by the respondents contending that the entire Dummulagudem Mandal is a Scheduled area and the petitioner is a non-tribal. After amalgamation of Regulation 2/70, the petitioner approached the settlement authorities, but they rejected the claim of the petitioner, and that the first petitioner is not in possession of the government land as alleged by him and that, the first petitioner recently occupied the land and trying to obtain patta for the said land under Reg. 2/70 by claiming himself as a landless poor, the lands in the tribal area are presumed to be tribal lands and no non-tribal is entitled for any patta under the G.O Ms No. 41, dated 12.01.1971 and G.O.Ms. No. 129, dated 13.8.1979 and as per rules the petitioner, being a non-tribal cannot be granted patta in the Scheduled area.

Heard the learned counsel for the petitioners and the learned Government Pleader for Land Acquisition. Perused the record.

As seen from the averments of the affidavit filed in support of the petition, it can be observed that the petitioners are under an apprehension that the respondents may evict them from the lands, which are in their occupation. But the Counter affidavit filed by the respondents does not disclose any action that has been initiated by the respondents to evict the petitioners from the lands. On that ground itself, the petition is liable to be dismissed since it is only an apprehension of the petitioners that the respondents would take away their possession of the land which is in their occupation, and in the absence of any material put forth by them.

Accordingly, the writ petition is dismissed. No costs.

Mrkr 07-10-2004

To

1.The District Collector, Khammam, Khammam District.

2.The Revenue Divisional Officer, Bhadrachalam, Khammam District.

3.The Mandal Revenue Officer, Dummugudem Mandal, Dummugudem, Khammam District.

4.Two C.Cs to the G.P. for Revenue, High Court Buildings, Hyderabad (O.U.T).

5. Two C.D copies